

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ELIJAH PAGE,

Plaintiff,

v.

CLARK COUNTY FIRE DISTRICT 6 et
al.,

Defendant.

CASE NO. 3:23-cv-05849-DGE

ORDER ADDRESSING MOTION
TO AMEND ANSWER TO
COMPLAINT (DKT. NO. 52)

Plaintiff's original complaint was superseded by an amended complaint filed on November 3, 2023. (Dkt. No. 20.) On November 13, 2023, Defendant Clark County Fire District 6 ("FD6") filed a motion to dismiss the first amended complaint. (Dkt. No. 21.) On November 30, 2023, Plaintiff requested leave of the Court to file a second amended complaint. (Dkt. No. 22.)


In an opinion and order dated May 7, 2024, this Court granted in part and denied in part the motion to dismiss but denied Plaintiff's request to file a second amended complaint. (Dkt. No. 39.) Plaintiff subsequently challenged the order by filing a motion for reconsideration (Dkt. No. 41) and a motion to certify a question of state law to the Washington Supreme Court (Dkt. No. 46), both of which the Court denied (Dkt. Nos. 45, 51).

1 On July 12, 2024, FD6 filed a “Motion to Amend Answer to Complaint[.]” (Dkt. No.
2 52.) Plaintiff voiced objection to the Court via email and included counsel for all parties,
3 pointing out the Court’s minute order setting trial and pretrial dates set forth a deadline for filing
4 amended pleadings on February 29, 2024, which has well passed. (Dkt. No. 33.) The confusion
5 here arises in that FD6’s “Motion to Amend Answer” appears to simply be a request that FD6 be
6 able to file an answer to the first amended complaint. FD6 does not have an operative pleading
7 to amend; once Plaintiff filed his first amended complaint, FD6’s previous answer became
8 obsolete, and it was required to either file a new answer or assert a Rule 12 motion. It chose the
9 latter.

10 But once the Rule 12 motion was resolved, FD6 never answered the operative complaint.
11 Federal Rule of Civil Procedure 12(4)(A) states: “if the court denies the motion [to dismiss] or
12 postpones its disposition until trial, the responsive pleading must be served within 14 days after
13 notice of the court’s action.” The Order granting in part and denying in part the motion to
14 dismiss was issued May 7, 2024; thus, FD6’s answer to the operative complaint—the first
15 amended complaint (Dkt. No. 20)—was due May 28, 2024.¹

16 Accordingly, the Court STRIKES FD6’s Motion to Amend Answer to Complaint (Dkt.
17 No. 52). FD6 shall file an answer to the operative complaint (Dkt. No. 20) within 10 days of the
18 issuance of this Order.

19 Dated this 15th day of July, 2024.

20 
21 _____
22 David G. Estudillo
23 United States District Judge

24 ¹ Defendant Erickson has answered the amended complaint. (Dkt. No. 31.)